

IN THE EASTERN DISTRICT OF NORTH CAROLINA

EASTERN DIVISION  
NO. 2:17-CV-00004-FL

SAVE OUR SOUND OBX, INC.,  
THOMAS ASCHMONEIT, RICHARD  
AYELLA, DAVID HADLEY, MARK  
HAINES, JER MEHTA, and GLENN  
STEVENS,

Plaintiffs,

v.

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION; JAMES H.  
TROGDON III, SECRETARY, NCDOT;  
FEDERAL HIGHWAY  
ADMINISTRATION; and JOHN F.  
SULLIVAN, DIVISION  
ADMINISTRATOR, FHWA,

Defendants.

**STATE DEFENDANTS' RESPONSE  
TO TEXT ORDER TO SHOW CAUSE  
REGARDING STATE DEFENDANTS'  
MOTION TO DISMISS PLAINTIFFS'  
NORTH CAROLINA  
ENVIRONMENTAL POLICY ACT  
CLAIM (COMPLAINT - COUNT III)**

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State Defendants North Carolina Department of Transportation ("NCDOT") and James H. Trogon III, Secretary of NCDOT, by and through counsel, hereby respond to the Court's March 16, 2017 Text Order to Show Cause, and represent that the Court should terminate as moot State Defendants' Motion to Dismiss Count III of Plaintiffs' Complaint (Doc. No. 15) as a result of the exclusion of that Count in the Plaintiffs' First Amended Complaint (Doc. No. 28).

Respectfully submitted this 16th day of March, 2017.

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ATTORNEY GENERAL

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ATTORNEY FOR STATE DEFENDANTS

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on March 16, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel of record:

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